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FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 1-703 308-6459

To: Attn: Anthony Smith / Attorney-Advisor
United States Patent Office
PCT Legal Office

From: Michael Slavin
McHale & Slavin, P.A.

RECEIVED

17 MAY 2002

Legal staff
International Division

Date: 05/17/2002

RE: US Serial No. 09/787,782

DOCUMENTS	NUMBER OF PAGES:
RENEWED PETITION UNDER 37 CFR. 1.47 (b)	16 attached
COMMENTS:	

See attached submission of Renewed Petition and attachments.

PRIVACY AND CONFIDENTIALITY NOTICE

The information contained in the facsimile transmission is confidential and private; it is intended to be disclosed only to the individual(s) to whom it is addressed.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : VERREAUULT et al.
Serial No. : 09/787,782
PCT Appln. No. : PCT/CA99/00849
Intl. Filing Date : September 21, 1999
For : CLEANSING TOWELETTE DISPENSER
PCT Legal Examiner : Anthony Smith
Our File No: : 2126.005

RENEWED PETITION UNDER 37 CFR 1.47(b)Certificate of FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent Office, Legal Affairs Division of the PCT Legal Office, via facsimile transmission to: 703-308-6459 this 17th day of May, 2002.


Cathy Nicholson, Legal Asst.

Attn: Legal Affairs Division of the PCT Legal Office
Commissioner for Patents
Washington, D.C. 20231

This request for reconsideration of a decision on petition issued March 19, 2002. In that decision, a copy of which is attached, the decision stated that the Petitioner has not shown that a bonafide attempt was made to present the application papers, including the specification, claims and drawings to Alain Jacques, a co-inventor.

In this regard, Applicant who owns all rights to the patent by Assignment executed by Richard Verreault and Alain Jacques on February 1, 2000, is supplying an Affidavit which states first hand knowledge of the facts that a complete copy of the application papers were sent to Alain Jacques, and that Mr. Jacques attorney made contact with the Applicant and stated that

ca to home/office
by Petitioner
cc copied w/
refusal to proceed

Renewed Petition
In re Application of Verreault, et.al.

Alain Jacques refuses to sign the Declaration. Attached is a copy of the Federal Express label showing that correspondence and a complete copy of the application was forwarded to Alain Jacques at his home and office address.

With regards to Item (4), attached is a newly executed Declaration from co-inventor Mr. Verreault and an Affidavit signed by Mr. Verreault indicating that he has executed the Declaration on behalf of himself and on behalf of the nonsigning joint inventor, Alain Jacques.

Again Petitioner wishes to reiterate that they are the assignee of all rights, interest and title to the application and that the co-inventor's refusal to sign is malicious. Thus, without having the right to prosecute this application, the Petitioner will be irreparably harmed, as such a decision would essentially destroy Petitioner's rights to the assignment, which it previously negotiated in good faith.

For this reason the Petitioner respectfully requests that the Commissioner reconsider the decision on the petition and allow the Petitioner, the named assignee to the above captioned patent application, to prosecute the application without further

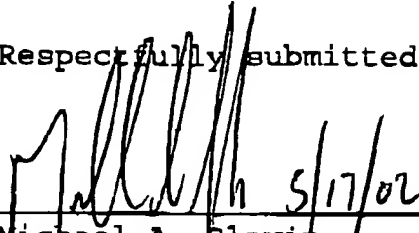
Renewed Petition

In re Application of Verreault, et.al.

delay. Please charge any fees associated with this Renewal

Petition to Deposit Account No. 13-0439

Respectfully submitted,


5/17/02

Michael A. Slavin
Reg. No. 34,016

McHALE & SLAVIN, P.A.

4440 PGA Blvd., Suite 402

Palm Beach Gardens, FL 33410

Telephone: (561) 625-6575

C:\FILES\CTN\PATENT.FM\PATENT\2126005renewedpetition#2.wpd



MAR 19 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

 COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
 www.uspto.gov

Michael A. Slavin
 McHale & Slavin, P.A.
 4440 PGA Blvd., Suite 402
 Palm Beach, Florida 33410

file to petition
4/19/02
OL 5/19/02

In re Application of
 VERREAULT et al.
 U.S. Application No. 09/787,782
 PCT No.: PCT/CA99/00849
 Int. Filing Date: 21 September 1999
 Priority Date: 21 September 1998
 Attorney Docket No.: 2126.005
 For: CLEANSING TOWLETTE DISPENSER

**DECISION ON PETITION
 UNDER 37 CFR 1.47**

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(b)" filed 14 January 2001. In a decision dated 12 September 2001 the "PETITION UNDER 37 CFR 1.47(b)" filed 02 July 2001 was dismissed because: (1) applicant did not provide adequate proof that the inventor, Richard Verreault and Alain Jacques, refused to execute the application or could not be reached after diligent effort; (2) a statement of the last known address of the nonsigning inventor; and (3) applicant did not provide a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

BACKGROUND

On 21 September 1999, applicant filed international application no. PCT/CA99/00849 which claimed a priority date of 21 September 1998. A proper Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the international filing date, i.e., 21 March 2001.

On 21 March 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); English translation of international application; and an assignment.

On 23 April 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 02 July 2001, applicant filed "Petition under 37 CFR 1.47(b)"; a declaration and power of attorney executed declaration on behalf of the assignee -- Visimax USA, Inc.; and an assignment. The petition was dismissed in a decision dated 12 September 2001.

Application No.: 09/787,782

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On 14 January 2002, applicant filed the present petition accompanied by: Supplemental Affidavit of Donald Conrad; Affidavit of Richard Verreault; Declaration executed by Donald Conrad; and Declaration executed by Richard Verreault.

DISCUSSION

Applicants have attached a declaration and power of attorney executed by co-inventor, Richard Verreault, therefore, a petition under 37 CFR 1.47(b) is not appropriate. Section 409.03(b) of the Manual of Patent Examining Procedure (M.P.E.P.) states, "[f]iling under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted when no inventor is available make application." Applicants' renewed petition under 37 CFR 1.47(b) is being treated as a petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (3) have been satisfied.

Concerning Item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration."

Application No.: 09/787,782

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A review of the present petition reveals that applicant has not satisfied the item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Alain Jacques. The supplemental affidavit of Donald Conrad states, "[o]n June 20, 2000 the necessary application papers were mailed to Mr. Jacques at his last know address . . . but no response has been received. Subsequent attempts to mail the declaration have been equally unsuccessful." The mailing of the Declaration and Power of Attorney is not considered a complete copy of the application paper (specification, including claims, drawings, and oath and declaration). Additionally, no documentary evidence to support the refusal or the attempt was provided in the petition.

In order to meet the requirements of 37 CFR 1.47(b) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to Alain Jacques or his counsel and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding Item(4), petitioner has provided a declaration executed by inventor Richard Verrault, on his behalf and on behalf of the non-signing joint inventor. However, the declaration is accompanied by an "Affidavit of Richard Verrault" which states, "[a]ttached hereto is a declaration on my behalf as a co-inventor." Additionally, the petition was also accompanied by a declaration executed by Donald G. Conrad on behalf of the missing inventor. Due to the inconsistencies, it is unclear if Mr. Verrault executed the declaration on behalf of himself or himself and the nonsigning joint inventor. Therefore, a newly executed declaration from Mr. Verrault is required or a statement from Richard Verrault indicating that he has executed the declaration on behalf of himself and on behalf of the nonsigning joint inventor, Alain Jacques.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Alain Jacques under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a).

Application No.: 09/787,782

4

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.



Richard Cole
PCT Legal Examiner
PCT Legal Office



Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone 703-308-6314
Fax: 703-308-6459

MCHALE & SLAVIN, P.A.

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TELEPHONE (312) 938-2515

Alain Jacques
2013, Route Kennedy
ST-Isidore de Beauce, (Quebec)
Province de Quebec
CANADA G0S 2S0

April 11, 2002

VIA INTL. FEDERAL EXPRESS

RE: U.S. Patent Application corresponding to
PCT Patent Application No.: PCT/CA99/00849;
CLEANING TOWEL DISPENSER CONTAINER;
Our File: 2126.005

Dear Mr. Jacques:

As you may be aware, this firm was retained to file a United States Patent Application corresponding to the International application entitled CLEANING TOWEL DISPENSER CONTAINER, wherein you are listed as an inventor.

In this regard, the United States Patent Office has requested the signature of all inventors. We enclose herewith a copy of the application as filed, along with a Declaration document for your signature. Please sign and date the attached Declaration and return it to our offices as soon as possible, and in any event, prior to May 19, 2002. We have enclosed a self-addressed Federal Express label for this purpose.

Should you have any questions regarding this, please do not hesitate to contact our offices.

Very truly yours,
McHale & Slavin, P.A.

Michael A. Slavin

Enclosures

cc: Donald Conrad

CAFILES\CTN\0100-2399\21260\slavinjacques-1.wpd

cc: address:

1187 Route Kennedy
Scott-Jonction (comte de Beauce)
Province de Quebec
CANADA G0S 3G0

May 17 02 11:15a

DONALD CONRAD

561-832-3216

P.2

05/13/2002 MON 16:25 FAX 581 825 6572 MCHALE & SLAVIN PA

002/008

Atty. Docket: 2126.005

APPLICANT: : VERRAULT ET AL
U.S. APPLN. NO. : 09/787,782
PCT Appln. No. : PCT/CA99/00849
INTL. FILING DATE: : 21 September 1999
PRIORITY DATE : 21 September 1998
TITLE: : CLEANSING TOWELETTE DISPENSER
PCT LEGAL EXAMINER : Anthony Smith

Our File No. : 2126.005

Commissioner of Patents
Washington, D.C. 20231

AFFIDAVIT OF DONALD CONRAD

Dear Sir:

I, Donald G. Conrad, swear and attest that I hold the position of
CHAIRMAN for the Applicant, Visimax, U.S.A., Inc.

I am submitting this Affidavit in order to supply information
regarding the impossibility in obtaining the signature of one of the
inventors for this application, Alain Jacques.

I instructed the law firm of McHale & Slavin, attorneys of record
for the above-identified application, to send to Mr. Alain Jacques, an
inventor for this application, via Federal Express copies of all
documents originally filed in the United States Patent Office with
regards to U.S. Serial No. 09/787,782, including a new Declaration for
signature. I gave McHale & Slavin the home and business address of Mr.
Alain Jacques.

May 17 02 11:16a

DONALD CONRAD

561-832-3216

05/13/2002 MON 16:25 FAX 561 625 6572 MCHALE & SLAVIN PA

P.3
003/008

The firm of McHale & Slavin did forward the application documentation to Alain Jacques on April 15, 2002 to both addressees via Federal Express in an effort to obtain a signature on the Declaration documentation.

On May 8, 2002, I received a call from Mr. Paul Biron, Alain Jacques attorney, stating that "his client will not sign the Declaration".

In this regard, we have exhausted all efforts to have Mr. Jacques sign the Declaration documentation.

I hereby declare that all statements made herein of my own knowledge and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent

Respectfully submitted.

Visimax U.S.A., Inc.

Date: May 14, 2002

By:

Donald G. Conrad
Donald G. Conrad

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May 17 02 11:16a

DONALD CONRAD

561-832-3216

P.4

05/13/2002 MON 16:28 FAX 561 825 8572 MCHALE & SLAVIN PA

004/008

Atty. Docket No. 2126.005

APPLICANT: : VERRAULT ET AL
U.S. APPLN. NO. : 09/787,782
PCT Appln. No. : PCT/CA99/00849
INTL. FILING DATE: : 21 September 1999
PRIORITY DATE : 21 September 1998
TITLE: : CLEANSING TOWELETTE DISPENSER
PCT LEGAL EXAMINER : Anthony Smith

Our File No. : 2126.005

Commissioner of Patents
Washington, D.C. 20231

AFFIDAVIT OF RICHARD VERRAULT

Dear Sir:

I, Richard Verrault, swear and attest that I am a co-inventor in the above-identified application.

I am submitting this Affidavit in order to supply information regarding the impossibility in obtaining the signature of the other inventor for this application, Mr. Alain Jacques.

I am aware of the lack of cooperation by Mr. Alain Jacques in view of the criminal suit filed against Mr. Jacques. Mr. Jacques has now refused to execute any documentation regarding the filing of this application.

I am submitting this Declaration for myself and on behalf of the nonsigning co-inventor, Mr. Alain Jacques.

May 17 02 11:16a

DONALD CONRAD

561-832-3216

p.5

FROM : Richard Verrault:

PHONE NO. : 4188432740

MAY. 17 2002 11:35AM PT

05/13/2002 MON 18:28 FAX 561 832 6572 MCHALE & SLAVIN PA

005/009

I hereby declare that all statements made herein of my own knowledge and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent

Respectfully submitted,

Date: 16-05-2002

By:


Richard Verrault

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**DECLARATION FOR UTILITY OR DESIGN
PATENT APPLICATION (37 CFR 1.47(b))****Attorney Docket No:** 2126.005
Inventor Name: Verreault et al**COMPLETE IF KNOWN**

Declaration submitted with initial filing
☒ Declaration submitted after Initial
Filing (with surcharge)
(37 CFR 1.15 (e))

Application No: 09/787,782
I.A. Filing Date: 21 SEP 99
Priority Date: 21 SEP 98
Examiner Name:

As a below named officer of the Applicant, I hereby declare that:

Applicant's business address, post office addr., and citizenship are as stated below:

It is believed that the names stated below are the original, first and sole inventors, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled:

CLEANSING TOWELETTE DISPENSER

the specification which
is attached hereto OR

☒ was filed on _____ As United States Application No. or PCT Intl. Appln. No. 09/787,782 and was
amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN NUMBERS:	COUNTRY:	FOREIGN FILING DATE:	PRIORITY NOT CLAIMED:	CERTIFIED COPY Yes No
2,248,503	Canada	21 SEP 98, now issued Canadian Patent No. 2,248,503 date: 02 FEB 00		

☐ Additional foreign appln. nos. are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below:

APPLICATION NUMBER(s): **FILING DATE:**

☐ Addnl. provisional appln. Nos. are listed on a Supplementary priority data Sheet PTO/SB/02B attached.

May 17 02 11:16a

DONALD CONRAD

561-832-3216

p.6

FROM : Richard Verreault:

PHONE NO. : 4188432740

MAY, 16 2002 01:25PM P2

05/13/2002 MON 10:20 FAX 561 625 6572 MCHALE & SLAVIN PA

561-832-3216

P.5

(p)007/008

DECLARATION - UTILITY or DESIGN PATENT APPLICATION

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 38 CFR of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which becomes available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. PARENT APPLICATION
or PCT NUMBER:

PARENT FILING DATE:

PARENT PATENT NO.
(if applicable)

PCT/CA99/00849

28 SEP 99

☐ Additional U.S. or PCT international applications, are listed on a supplemental priority sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

☒ Customer No: 21917 PLACE CUSTOMER NO. BAR CODE LABEL HERE
OR

Registered practitioner(s) name(s)/registration number(s) listed below.

NAME:	REGISTRATION NO:	NAME:	REGISTRATION NO:
Michael A. Slavin	34,016	Joseph S. Beckman	45,529
Ferris H. Lander	43,377		
C. Fred Rosenbaum	27,110		

DIRECT ALL CORRESPONDENCE TO:

McHale & Slavin, P.A.
440 PCA Blvd., Suite 402
Palm Beach Gardens, FL 33411
TELEPHONE: (561) 625-6575
FAX: (561) 625-6572

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 17 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1-00

NAME OF SOLE OR FIRST INVENTOR: Given Name (first and middle (if any))		X A Pledge has been filed for this undersigned inventor. Family Name or Surname	
Richard Verreault		Verreault	
Inventor's Signature: <i>Richard Verreault</i>		Date: 16-5-02	
Residence: City	State	Country	Citizenship
6527 boul. St. Jacques, Nouichatel	Quebec	CANADA	CANADIAN
Residence Address			
6527 boul. St. Jacques			
City	State	Country	
Nouichatel	Quebec	Canada E 3C 1M3	

May 17 02 11:16a

DONALD CONRAD

561-832-3216

P.7

FROM : Richard Verreault:

PHONE NO. : 4188432740

MAY. 16 2002 01:25PM P3

05/13/2002 MON 16:20 FAX 581 825 6572 MCHALE & SLAVIN PA

008.C08

2-00

Name of Additional or Joint Insured, if any:		<input checked="" type="checkbox"/> A Petition has been filed to this universal insurer.	
Given Name (first and middle if any)		Family Name (last or Surname)	
Given Name (first and middle if any)		Family Name (last or Surname)	
Date of Birth		Date of Birth	
Signature		Signature	
Residence City		State	Country
1187 Route Kennedy Scott-Jonction		Quebec	CANADA
Mailing Address			
1187 Route Kennedy			
City		State	Country
Scott-Jonction		Quebec	CANADA GDS 100

16-05-02